

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO. 02-157-03
JACOB BOGATIN	:	

ORDER

AND NOW, this ____ day of April 2005, upon consideration of Defendant Jacob Bogatin's Unopposed Motion For Speedy Trial Act Continuance pursuant to 18 U.S.C.

§ 3161(h)(7), it is hereby ORDERED that:

1. the trial date in the above-captioned matter is continued from April 25, 2005 to a special listing date to be set by the Court;
2. defendant Jacob Bogatin will have 30 days prior to trial to file pre-trial motions;
3. the government will have 7 days after the filing of defendant Jacob Bogatin's motions to respond to the defense motions filed with this Court;
4. defendant Jacob Bogatin will have 7 days after the government's response to file any replies to the government's pleadings.

IT IS FURTHER ORDERED that the delay resulting from this continuance shall be excluded from Mr. Bogatin's Speedy Trial calculation pursuant to 18 U.S.C. § 3161(h)(7).

The Court enters this Order based on the following findings:

1. Jacob Bogatin is one of four defendants charged under the Superseding Indictment filed in this case. The remaining three defendants are fugitives and have not been arraigned.

2. The government continues actively to seek to obtain the fugitive defendants' presence at trial.

3. A continuance will provide additional time for the government to locate the fugitive defendants so that a joint trial of all the defendants may be held in this case. A joint trial will promote judicial efficiency and economy.

4. Defendant Jacob Bogatin has not filed a motion to sever his trial from the fugitive defendants. The government has not sought a separate trial.

5. Pursuant to 18 U.S.C. § 3161(h)(7), a reasonable period of delay in bringing the fugitive defendants to trial is excludable as to Mr. Bogatin.

BY THE COURT:

ANITA B. BRODY, J.

2. On or about April 28, 2003, defendant Jacob Bogatin was arraigned and entered a plea of not guilty to all counts of the Superseding Indictment, and has since been preparing for trial. Mr. Bogatin's trial is currently scheduled for April 25, 2005.¹

3. Defendants Mogilevich, Fisherman, and Tsoura are fugitives and have not yet been arraigned. The government is still attempting to secure the presence of these defendants at trial.

4. Mr. Bogatin has not filed a motion to sever his trial from the fugitive defendants and does not intend to. Further, the government has not sought a separate trial.

5. Pursuant to section 3161(h)(7) of the Speedy Trial Act, a reasonable period of delay in bringing one defendant to trial is excludable as to all co-defendants when no motion for severance has been granted. 18 U.S.C. § 3161(h)(7). Section 3161(h)(7) reflects a strong congressional preference for joint trials. See United States v. Pena, 793 F.2d 486, 490 (2d Cir. 1986). See also United States v. Novak, 715 F.2d 810, 814-15 (3d Cir. 1983).

Request for Relief

6. Defendant Jacob Bogatin respectfully requests a continuance of his trial date to allow the government additional time to locate the fugitive defendants so that a joint trial of all the defendants may be held in this case. A joint trial will serve the interests of "judicial efficiency by avoiding duplicative proof at successive trials." Pena, 793 F.2d at 490.

7. The delay from this continuance is properly excluded from Mr. Bogatin's Speedy Trial calculation pursuant to 18 U.S.C. § 3161(h)(7).

¹ On June 17, 2003, this Court declared this matter a complex case and granted the government's Motion For Speedy Trial Act Continuance And For Special Listing. On May 14, 2004, this Court granted Jacob Bogatin's Motion For Speedy Trial Act Continuance and set the jury trial date for April 25, 2005.

8. The government does not oppose this motion.

WHEREFORE defendant Jacob Bogatin respectfully requests that this Court grant his unopposed motion for relief under 18 U.S.C. § 3161(h)(7), including a continuance, exclusion of time from Speedy Trial Act calculations, a special listing, and a revised motion schedule.

Dated: April 8, 2005

s/ Eric W. Sitarchuk
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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2005, a copy of Defendant Jacob Bogatin's Unopposed Motion For Speedy Trial Act Continuance was served by electronic and first class mail, postage prepaid, upon:

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s/ Eric W. Sitarchuk
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